

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 97-470

October 31, 1997

NORTHLAND TELEPHONE COMPANY  
Request for Designation as Eligible  
Telecommunications Carrier

ORDER

WELCH, Chairman; NUGENT and HUNT, Commissioners

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By this Order, we grant Northland Telephone Company (Company) Eligible Telecommunications Carrier status, designate the Company's entire study area as eligible to receive federal universal service support, and divide the study area into four service areas.

On May 8, 1997, the Federal Communications Commission (FCC) issued its Report and Order on Universal Service (FCC Order No. 97-157, CC Docket No. 96-45, referred herein as FCC Order) implementing key portions of the Telecommunications Act of 1996 (TelAct). The FCC's Order establishes criteria that telecommunications carriers must meet to be eligible for federal universal service support, and limits support to specific areas. FCC Order ¶ 56. The FCC Order requires state commissions to designate the areas within a state that qualify for federal universal service support (service areas) and to grant carriers Eligible Telecommunications Carrier (ETC) status. *Id.*, ¶¶ 135, 182-191. The FCC Order also states that after January 1, 1998, a carrier cannot obtain federal universal service fund support unless the appropriate state commission has granted the carrier ETC status. *Id.*, ¶ 198.

To meet ETC status, a telecommunications carrier must offer federally designated universal service elements, including E911 emergency services where requested, and toll limitation for qualifying low-income customers. *Id.*, ¶ 56. A carrier unable to provide access to E911 service and toll limitation services may ask a state commission to delay these requirements until the carrier upgrades its facilities. *Id.*, ¶¶ 88-93. Although not a precondition for eligibility, an eligible carrier must offer Lifeline and Linkup service and advertise the availability of universal services and the Lifeline and Linkup programs in "general media." *Id.*, ¶¶ 148, 326, 347. Additionally, the ETC must provide these services throughout its designated service area.

For ETC status and service area purposes, the Northland Telephone Company is considered a rural carrier. 47 U.S.C. § 153(37). Under the TelAct, a rural carrier's study area is the carrier's service area unless the FCC and the state commission establish a different service area. 47 U.S.C. § 214(e)(5). However, the FCC Order encourages states to determine whether universal service goals are best met by dividing study areas into

more than one service area where the carrier's service territory consists of noncontiguous exchanges, and to submit such determinations to the FCC for concurrence. FCC Order, ¶ 190.

On July 22, 1997, Northland filed a request asking the Maine PUC to grant the Company ETC status and to designate the Company's entire study area as one service area. The Company's request certifies that it currently provides, and will continue to provide throughout its study area, all federal universal service elements and Lifeline/Linkup services, except E911 and toll limitation services. The Company now provides 911 services and agrees to implement E911 services in a timely manner after the State of Maine develops its E911 system. Although Northland does not provide toll limitation services, it notes that the FCC is reconsidering this requirement and that the Company does provide toll blocking services. Northland asks that the Commission grant an indefinite delay of the toll limitation requirements pending further FCC review. The Company also indicates that it will continue to advertise the availability of Lifeline and Universal Services through bill stuffers and public notices, and is working with Commission Staff, and other Maine carriers, to consider additional outreach and innovative credit and collection programs to further increase Lifeline penetration levels in Maine.

The Commission finds that Northland Telephone Company meets the TelAct and FCC requirements and designates the Company an Eligible Telecommunications Carrier for purposes of continuing eligibility for federal universal service support. The Commission grants Northland's request to delay implementing E911 services until the State of Maine implements its E911 program at which time Northland must submit E911 implementation plans. The Company may also postpone toll limitation services until the FCC issues a final decision on this requirement, at which time the Company must file terms and conditions implementing the requirements or request a waiver as permitted under the FCC Order.

Several Maine local exchange carriers have study areas consisting of noncontiguous exchanges, or jointly serve a portion of a study area. Northland's service area is comprised of four noncontiguous clusters of exchanges that are located throughout Maine.<sup>1</sup> Given the TelAct's goal to promote local competition and the FCC's charge to consider dividing noncontiguous exchanges into more than one service area, we believe that it is appropriate to consider dividing Northland's study area into four separate service areas.

Northland requests that the Commission designate the Company's entire study area as one single service area. The Company asks the Commission to defer deciding whether to divide the Company's study

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<sup>1</sup>In fact, one of the clusters serves a portion of New Hampshire from its central office.

area into more than one service area until the FCC decides whether to reconsider that section of the FCC Order suggesting that states may divide noncontiguous exchange study areas into more than one service area. Northland argues that until other carriers seeking ETC status claim that serving the Company's entire study area discourages competition, the Commission should not act. Northland also suggests that until the Commission proceeds further into its investigation of establishing a state universal service fund, the Commission will not fully know the impacts of dividing the Company's study area into more than one service area. Northland concludes that it is not necessarily opposed to dividing its study area. Rather, the Company suggests that the Commission defer the decision to divide its study area until the impacts are known, the FCC issues its final decision on this issue, or a competitive carrier requests ETC status to serve areas within Northland's study area.

We do not believe that deciding at this time to divide Northland's study area into more than one service area is premature or imprudent. An important goal of the TelAct is to remove barriers to local competition which large or geographically dispersed study areas tend to impede. Northland's four noncontiguous exchanges have little in common other than being under the Company's operations. One serves the western mountains; another the mid-interior section; a third serves the north woods area; and the fourth, the northern tip of Maine. It simply does not promote universal service goals and provide opportunities for meaningful customer choice to require new carriers to serve Bethel, Liberty, Sherman Mills and Fort Kent simply because Northland's study area is geographically dispersed.

If the FCC revises its decision permitting states and the FCC to divide noncontiguous exchanges into separate service areas, we will reconsider today's decision. Given that the FCC Order stands until modified, we do not believe that we should base our decision on the speculation that the FCC may reconsider and may eventually change this provision. We similarly dismiss Northland's contention that today's decision which designates service areas for existing federal universal service support purposes means that this designation will apply to future federal and state universal service support mechanisms. Today's designation is subject to change as the FCC further considers federal universal service mechanisms and the Maine Commission considers a state universal service fund. Therefore, the Commission designates Northland's entire study area as eligible for federal universal service support, but divides the study area into the following four service areas:

1. North: Eagle Lake, Fort Kent, and St. Francis exchanges;
2. Central: Brooks, Freedom, Liberty, Palermo, Stockton Springs, and Washington exchanges;

3. West: Fryeburg, Lovell, Morrill, North Fryeburg, and North Lovell exchanges<sup>2</sup>; and

4. East: Island Falls, Kingman, Lee, Mattawamkeag, Patten, Sherman Mills, and Smyrna Mills exchanges.

Accordingly, we

O R D E R

1. That Northland Telephone Company is an Eligible Telecommunications Carrier for purposes of continued eligibility for federal universal service fund support;

2. That Northland's entire study area is designated as eligible to receive existing federal universal service support, but is divided into four service areas;

3. That by November 30, 1997, Northland Telephone Company must file compliance Terms and Conditions, to be effective no later than December 31, 1997, implementing universal service elements and Lifeline/Linkup program changes as required by this Order, the FCC Order, and the Commission's Order (Docket No. 97-825) on Lifeline/Linkup Program changes; and

4. That the Commission will petition the FCC for concurrence in the decision to divide Northland's existing study area into four service areas.

Dated at Augusta, Maine this 31st day of October, 1997.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR:    Welch  
   Nugent  
   Hunt

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<sup>2</sup>Because the Maine Commission only has jurisdiction over exchanges located within Maine, for ETC service area purposes, this service area is limited to those portions of exchanges within our jurisdiction.